

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
)	
Section 63.71 Application of LDMI)	Comp. Pol. File No. 648
Telecommunications, Inc. for Authority to)	
Discontinue the Provision of Domestic)	
Telecommunications Services to Payphone)	
Service Providers in Michigan and Ohio)	
)	

ORDER

Adopted: May 29, 2003

Released: May 30, 2003

By the Senior Deputy Bureau Chief, Wireline Competition Bureau:

1. In this Order, we grant LDMI Telecommunications, Inc.'s (LDMI) application to discontinue the provision of domestic telecommunications services to its payphone service provider customers located in Michigan and Ohio, pursuant to section 214(a) of the Communications Act of 1934, as amended,¹ and section 63.71 of the Federal Communications Commission's (Commission) rules.² As explained in further detail below, authority to discontinue is granted consistent with LDMI's agreement to facilitate the transition of A-1 Payphones (A-1), Northeast Ohio Telephone, Inc. (Northeast) and RK&B Manufacturing Services, Inc. (RK&B), the commenters in this proceeding, to other carriers by providing service until September 30, 2003, an additional 120 days past LDMI's planned discontinuance date of May 30, 2003.

BACKGROUND

2. On April 22, 2003, LDMI filed an application with the Commission requesting authority under section 214(a) of the Act and section 63.71 of the Commission's rules to discontinue certain domestic telecommunications services. Specifically, the application states that LDMI seeks authority to discontinue the provision of local and long distance telecommunications services, including operator services, that it currently provides to its payphone service provider customers in Michigan and Ohio.³ LDMI states that it notified affected customers by sending written notice on April 21, 2003.⁴

3. By Public Notice dated April 30, 2003, the Commission notified the public that, in

¹ 47 U.S.C. § 214(a).

² 47 C.F.R. § 63.71.

³ The application indicates that LDMI is non-dominant with respect to these services.

⁴ See 47 C.F.R. § 63.71(a).

accordance with 47 C.F.R. § 63.71(c), the application would be deemed to be automatically granted on the thirty-first (31st) day after the release date of the notice, unless the Commission notified LDMI that the grant would not be automatically effective.⁵ Accordingly, the automatic grant date for the application is May 31, 2003. The Commission received comments filed in opposition from A-1 and RK&B, and received a letter in opposition on behalf of Northeast,⁶ three LDMI customers who claim that they need additional time to secure alternative service.

4. Section 214(a) of the Communications Act, as amended, states that “[n]o carrier shall discontinue, reduce, or impair service to a community, or part of a community, unless and until there shall first have been obtained from the Commission a certificate that neither the present nor future public convenience and necessity will be adversely affected thereby.”⁷ The primary purpose of this requirement is to reduce the harm to consumers caused by discontinuances of service, which is an important aspect of the Commission’s general obligation under the Communications Act to protect and promote the public interest.⁸ As the Commission has stated, “we have retained the right to delay grant of a discontinuance authorization if we believe an unreasonable degree of customer hardship would result,”⁹ and will review each application to determine whether proper notice has been given, whether customers or other end users are able to receive service or a reasonable substitute from another carrier, and whether the public convenience and necessity is otherwise adversely affected.¹⁰

DISCUSSION

5. The Commission has considerable discretion in making a finding under section 214.¹¹ We find that the record in this proceeding makes clear that, to the extent A-1, Northeast, and RK&B allege that they are unable to migrate within the 31-day period, LDMI has provided sufficient assurances that it will maintain service for these customers for a reasonable, additional period of time in order to allow them to migrate as late as September 30, 2003. In an *Ex Parte* letter filed on May 29, 2003, LDMI indicates that it has voluntarily agreed to continue to provide services to A-1, Northeast, and RK&B until September 30, 2003.¹² On the basis of LDMI’s

⁵ *Comments Invited on LDMI Telecommunications, Inc. Application to Discontinue Domestic Telecommunications Services*, Public Notice, Comp. Pol. File No. 648, DA 03-1457 (rel. April 30, 2003).

⁶ We note that counsel for LDMI forwarded the letter in opposition that Northeast apparently attempted to file with the Commission.

⁷ 47 U.S.C. § 214(a).

⁸ *See* 47 U.S.C. § 201.

⁹ *Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities Authorizations Therefor (Competitive Carrier First Report and Order)*, 85 FCC 2d 1, 49 (1980).

¹⁰ *See* 47 C.F.R. § 63.71(a); *see, e.g., AT&T Application to Discontinue Interstate Sent-Paid Coin Service Not Automatically Granted*, Public Notice, NSD File No. W-P-D-497 (Aug. 3, 2001) (requiring AT&T to show how it will minimize the negative impact on the affected customers).

¹¹ *FCC v. RCA Communications, Inc.*, 73 S.Ct. 998, 1002 (1953).

¹² *See* Letter from Patrick J. Donovan and Grace R. Chiu, Counsel for LDMI Telecommunications, Inc., to Ms. Marlene H. Dortch, Secretary, Federal Communications Commission (May 29, 2003).

representation, we find that the proposed discontinuance will not result in an unreasonable degree of customer hardship, and, therefore, that there will be no adverse effect on the public convenience and necessity.¹³ Accordingly, LDMI may discontinue service on May 31, 2003, to the customers affected by this application in a manner consistent with its filed representations in this proceeding.

ORDERING CLAUSE

6. Accordingly, pursuant to sections 1, 4(1), and 214 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(1), 214, and sections 0.91, 0.291, and 63.71 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 63.71, IT IS ORDERED that the application of LDMI Telecommunications, Inc. to discontinue domestic telecommunications IS GRANTED, consistent with its filed representations in this proceeding.

FEDERAL COMMUNICATIONS COMMISSION

Jeffrey J. Carlisle
Senior Deputy Bureau Chief
Wireline Competition Bureau

¹³ Although Northeast submits that it did not receive proper notice of LDMI's planned discontinuance of service, and LDMI cannot confirm that written notice was sent to Northeast, we note that Northeast received sufficient notice to allow it to object to LDMI's proposed discontinuance of service, and to have its concerns addressed by LDMI along with all other concerned parties. Because LDMI has agreed to provide Northeast, as well as the other commenters with service for an additional 120 days, thus allowing them to obtain alternative service, we find that we do not need to reach this issue or any of the other arguments made by the commenters and by LDMI in its May 29, 2003 letter.